

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

# FILED

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**UNITED STATES OF AMERICA,**

Plaintiff,

**V.**

**Marcelino LUIS-Fuentevilla,**

Defendant

Magistrate Docket No.

'08 MJ 0007

COMPLAINT FOR VIOLATION OF:

# Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **January 1, 2008** within the Southern District of California, defendant, **Marcelino LUIS-Fuentevilla**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **2nd DAY** OF **January, 2008**

Cathy A. Bencivengo  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:****Marcelino LUIS-Fuentevilla****PROBABLE CAUSE STATEMENT**

On January 1, 2008, Border Patrol Agent M. Rodriguez responded to a report of five suspected illegal aliens walking north from Tecate Peak by Senior Patrol Agent C. Carlson who was operating a infrared thermal scope. This area is approximately four miles west of the Tecate, California Port of Entry and three miles north of the International Border between the United States and Mexico. Once in the area Agent Rodriguez was directed by Agent Carlson to the group's location. Agent Rodriguez encountered the group attempting to conceal themselves in large rocks and some brush. Agent Rodriguez identified himself as a Border Patrol Agent and conducted an immigration interview of all five individuals. All of the individuals, including one later identified as the defendant **Marcelino LUIS-Fuentevilla**, admitted to being citizens and nationals of Mexico without having any immigration documents that would allow them to be or remain in the United States legally. The group was arrested at approximately 3:45 A.M. and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 3, 2007** through **Laredo, Texas**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated that he understood and was willing to answer questions without having an attorney present. The defendant stated that he is a citizen and national of Mexico and that on December 31, 2007, he illegally re-entered into the United States, after having been previously deported. The defendant also stated that his intended destination within the United States was Atlanta, Georgia.